

09/818,447MS158546.1**REMARKS**

Claims 1-29 are currently pending in the subject application and are presently under consideration. Claims 1, 4, 17, 24, 25 and 29 have been amended herein. A clean version of all pending claims is found at pages 2-7.

Favorable consideration of the subject patent application is respectfully requested in view of the comments and amendments herein.

I. Objection to Specification

In the Office Action, the disclosure stands objected under the contention that it improperly contains an embedded hyperlink and/or other form of browser-executable code. Citing MPEP §608.01, the Examiner requested that the embedded hyperlink and/or other form of browser-executable code be deleted.

Applicants' representative respectfully asserts that the URI designation (e.g., <http://www.abc.com/123.html>) set forth in the disclosure as filed is necessary in order to comply with the requirements of 35 U.S.C. §112, first paragraph. Furthermore, applicants' representative respectfully submits that the website references (e.g., hyperlinks) are not intended to be active. Accordingly, in compliance with MPEP §608.01, applicants' representative respectfully requests that the Office disable these hyperlinks when preparing the text to be loaded onto the USPTO web database.

In view of the foregoing, applicants' representative respectfully requests withdrawal of this objection.

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II. Objection to Claim 24

The Office Action contends that claim 24 is improper under 37 CFR 1.75(c) as being in improper form (*e.g.*, a multiple dependent claim should refer to other claims in the alternative only). In response thereto, claim 24 has been currently amended in order to correct a typographical error. It is believed that this amendment renders the objection moot. Accordingly, the objection of claim 24 should be withdrawn.

III. Objection to Claims 4 and 29

The Office Action contends that claims 4 and 29 contain an informality. Specifically, the Office Action contends that “a Hypertext Transfer Protocol” should be “a Hypertext Transfer Protocol.” In response thereto, claims 4 and 29 have been currently amended in order to correct a typographical error. Accordingly, the objection of claims 4 and 29 should be withdrawn.

IV. Rejection of Claims 1-25 and 29 Under 35 U.S.C. §112, second paragraph

Claims 1-25 and 29 stand rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In response thereto, claims 1, 17, 24 and 29 have been amended in order to cure minor informalities. It is believed that these amendments render the subject rejection moot. Applicants’ representative believes that the Examiner mistakenly referenced independent claim 25 with respect to this rejection since a reason for the rejection was not specified. Therefore, applicants’ representative is unable to specifically respond to the rejection of independent claim 25. In view of the forgoing, the rejection of claims 1, 17, 24, 25 and 29 (and claims 2-16 and 18-23 which depend from independent claims 1 and 17 respectively) should be withdrawn.

09/818,447MS158546.1**V. Rejection of Claims 25-27 Under 35 U.S.C. §102(e)**

Claims 25-27 stand rejected under 35 U.S.C. §102(e) as being anticipated by Potvin *et al.* (U.S. 6,393,467). It is respectfully submitted that this rejection should be withdrawn for at least the following reasons. Potvin *et al.* does not teach or suggest each and every element of applicants' claimed invention.

For a prior art reference to anticipate, 35 U.S.C. §102 requires that "*each and every element* as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *In re Robertson*, 169 F.3d 743, 745, 49 USPQ2d 1949, 1950 (Fed. Cir. 1999) (*quoting Verdegaal Bros., Inc. v. Union Oil Co.*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987)) (emphasis added).

The present invention relates generally to computer programming and more particularly *to simplifying communications over one of a plurality of protocols by providing network objects operable to abstract protocol specific communication details.* In particular, as recited in amended independent claim 25, the subject invention provides for a data packet adapted to be transmitted between two or more computer processes. The data packet includes *information operable to facilitate selecting one from a plurality of protocol object creators.*

As set forth at page 3, line 10-13, the subject specification discloses *a class factory operable to select protocol object creators that produce objects associated with the various protocols.* In other words, the claimed invention provides for a plurality of protocol object creators that enable the system to conform to protocol specific communication details. To the contrary, Potvin *et al.* discloses a computer network interconnected computing device and server. In accordance with Potvin *et al.*, a server maintains a database of known computing devices - the computing device is intermittently connected to the network and obtains an assigned network address each time a network connection is established. Thereafter, the computing device contacts the server and provides an identifier and the assigned network address to the server. The server compares the identifier to entries of the database to find a matching entry in the database. In response to finding a matching entry, the server stores the assigned network

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address and provides a second network address stored at the server or at computing device to the computing device. The second network address is used by the computing device as a homepage address to contact another network interconnected computer. Thereafter, the server may provide data in real time to the computing device using the stored network address. (*See Potvin et al.*, Abstract).

Potvin *et al.* simply relates to networked computing devices, and more particularly to a network connected computing device and server and method of notifying the server of a network connection by the computing device. (*See Potvin et al.*, col. 1, ln. 6-9) rather than simplifying communications over one of a plurality of protocols by providing network objects operable to abstract protocol specific communication details as in applicants' claimed invention. In view of the foregoing, it is readily apparent that Potvin *et al.* fails to teach or suggest the noted features of the subject invention as recited in independent claim 25.

Moreover, the applicants' claimed invention provides a system and method for a program to communicate over a variety of protocols without having to rewrite and recompile the program when interacting with different protocols. (*See pg. 3, ln. 1-3*). One novel aspect of applicants' invention is that *a protocol object creator* may be identified, selected and/or employed to produce objects associated with the various protocols. This system and method is accomplished through the use of a *protocol object creator* as recited in independent claim 25.

Furthermore, that the subject invention mitigates complexity and inflexibility problems associated with conventional systems by providing protocol objects that hide the protocol specific details from the program, making access to the resources possible *via* a byte stream. (*See pg. 9, ln. 4-7*). In other words, the present invention simplifies writing applications that communicate with one or more resources *via* one or more protocols.

Potvin *et al.* is silent with regard to any system and/or method (e.g., protocol object creator) to produce objects associated with various protocols. Rather, Potvin *et al.* is directed to a method to "push" data from a server to interconnected computers in lieu of a specific request for such data. (*See Potvin et al.*, col. 5, ln. 16-19). Potvin *et al.* simply discloses that "IP packets containing data conforming to the HTTP protocol are

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formed, typically from data stored within memory of a server, such as memory 42, and dispatched as a result of IP packets directed to a logical port, used to direct IP packets to an HTTP server application over network 10, to a physical interface, and IP suite of a network interconnected computing device." (See, Potvin *et al.*, col. 4, ln. 47-53).

For at least the reasons set forth *supra*, applicants' representative respectfully submits that Potvin *et al.* does not teach or suggest a data packet adapted to be transmitted between two or more computer processes including *information operable to facilitate selecting one from a plurality of protocol object creators* as recited in independent claim 25.

With respect to independent claim 26, applicants' representative respectfully asserts that Potvin *et al.* fails to disclose, teach or suggest *each and every element* for at least the reasons set forth *supra*. Specifically, independent claim 26 includes a data packet adapted to be transmitted between two or more computer processes. The *data packet includes a byte stream data produced by a protocol object, the byte stream data having at least one of a format specific to a protocol and one or more headers and/or footers specific to the protocol removed from a first data read from a resource*.

It is clear from the analysis set forth above that Potvin *et al.* is silent at least with regard to *the data packet having a byte stream data produced by a protocol object, the byte stream data having at least one of a format specific to a protocol and one or more headers and/or footers specific to the protocol removed from a first data read from a resource* as recited in independent claim 26.

It is clear that Potvin *et al.* does not anticipate or suggest the subject invention as recited in independent claims 25 and 26 (and claim 27 depending there from). Accordingly, this rejection should be withdrawn.

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VI. Rejection of Claims 1-16 and 28-29 Under 35 U.S.C. §103(a)

Claims 1-16 and 28-29 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Potvin *et al.* It is respectfully requested that this rejection be withdrawn for at least the following reasons. Potvin *et al.* does not teach or suggest all limitations as recited in the subject claims.

To reject claims in an application under §103, an examiner must establish a *prima facie* case of obviousness. A *prima facie* case of obviousness is established by a showing of three basic criteria. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) *must teach or suggest all the claim limitations*. See MPEP §706.02(j). The *teaching or suggestion to make the claimed combination* and the reasonable expectation of success *must be found in the prior art and not based on the Applicant's disclosure*. See *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). An examiner cannot establish obviousness by locating references which describe various aspects of a patent applicant's invention without also providing evidence of the motivating force which would impel one skilled in the art to do what the patent applicant has done. *Ex parte Levengod*, 28 USPQ2d 1300 (P.T.O.B.A.&I. 1993).

As recited in independent claim 1, the subject invention provides for a system for communicating over a protocol, including a *class factory*. The class factory includes a plurality of identifiers; and *at least one registered protocol object creator associated with at least one of the plurality of identifiers, the at least one registered protocol object creator adapted to create at least one protocol object*.

Potvin *et al.* does not teach, disclose or suggest each and every limitation of independent claim 1. In particular, Potvin *et al.* is silent with regard to a *class factory* let alone being a *class factory which includes a plurality of identifiers whereby at least*

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one registered protocol object creator associated with at least one of the plurality of identifiers, the at least one registered protocol object creator adapted to create at least one protocol object. Rather, Potvin *et al.* merely teaches a network identifier to identify an HTML page. (See Potvin *et al.*, col. 6, ln. 34-35). Potvin *et al.* does not teach or suggest the use *a class factory* and a *registered protocol object creator adapted to create at least one protocol object* as recited in this claim.

Although the Examiner concedes that "Potvin does not explicitly teach "a class factory,'" it is contended in the Office Action that "it would have been obvious to one of ordinary skill in the art to have applied the teaching of Potvin *et al.* for "a class factory" in order to provide means for allowing the creation and dispatch of IP packets." Applicants' representative respectfully disagrees - to the contrary, Potvin *et al.* is silent with regard to any teaching or suggestion of a class factory as recited in independent claim 1.

Similar to independent claim 1, independent claim 28 recites, in part, a system for simplifying application program communication over a protocol, including a *registering means for registering a protocol object creator, a creating means for creating a protocol object, a determining means for selectively determining means for creating a protocol object, an accessing means for accessing a method in the protocol object, which method implements a method defined in a network object base class.* Likewise, independent claim 29 recites, in part, a system having *a class factory including a plurality of identifiers; and at least one registered protocol object creator, the at least one registered protocol object creator adapted to create at least one protocol object.* In view of the aforementioned deficiencies of Potvin *et al.* regarding claim 1, it is respectfully submitted that Potvin *et al.* does not teach or suggest the aspects recited in these claims.

Potvin *et al.* fails to teach or suggest every limitation of independent claims 1, 28 and 29 (as well as claims 2-16 depending there from), and this rejection should be withdrawn.

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VII. Rejection of Claims 17-23 Under 35 U.S.C. §103(a)

Claims 17-23 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Potvin *et al.* in view of De Boor *et al.* (U.S. 6,173,316). It is respectfully submitted that these rejections should be withdrawn for at least the following reason. The combination of Potvin *et al.* and De Boor *et al.* does not teach or suggest all limitations recited in the subject claims.

Claims 18-23 depend from independent claim 17. Claim 17 recites a method for allowing a computer program to communicate over one of a plurality of protocols including the acts of *registering one or more protocol handlers operable to create a protocol object*, receiving a request to communicate, *creating an instance of a protocol object by employing a registered protocol handler, returning the protocol object to an application and using a base class Application Programming Interface (API) to communicate through the protocol object*.

For the reasons set forth *supra*, Potvin *et al.* does not teach or suggest the limitations recited in independent claim 17. Moreover, De Boor *et al.* does not cure the aforementioned deficiencies of Potvin *et al.* with respect to independent claim 17. Rather, De Boor *et al.* merely teaches a system, method, and software product to provide a wireless communications device with a markup language based man-machine interface. The man-machine interface provides a user interface for the various telecommunications functionality of the wireless communication device, including dialing telephone numbers, answering telephone calls, creating messages, sending messages, receiving messages, establishing configuration settings, which is defined in markup language, (e.g., HTML), and accessed through a browser program executed by the wireless communication device. The browser processes an extended form of HTML that provides new tags and attributes that enhance the navigational, logical, and display capabilities of conventional HTML, and particularly adapt HTML to be displayed and used on wireless communication devices with small screen displays. (*See De Boor et al., Abstract*).

Clearly, De Boor *et al.* does not disclose, teach or suggest the claimed aspects of the present invention or make up for the aforementioned deficiencies of Potvin *et al.* with respect to independent claim 17.

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It appears the Office Action relies on improper hindsight in reaching an obviousness determination. The Federal Court has held that to imbue one of ordinary skill in the art with knowledge of the invention in suit, when no prior art reference or references of record convey or suggest that knowledge, is to fall victim to the insidious effect of a hindsight syndrome wherein that which only the inventor taught is used against its teacher. One cannot use hindsight reconstruction to pick and choose among isolated disclosures in the prior art to deprecate the claimed invention. *In re Fine*, 837 F.2d 1071, 5 U.S.P.Q.2d (BNA) 1596 (Fed. Cir. 1988) (citations omitted).

For at least these reasons, it is readily apparent that Potvin *et al.* considered individually or together with De Boor *et al.* fails to disclose, teach or suggest all the claim limitations recited in independent claim 17 (and claims 18-23 which depend there from). Withdrawal of this rejection is respectfully requested.

09/818,447MS158546.1**CONCLUSION**

The present application is believed to be in condition for allowance, in view of the above comments and amendments. A prompt action to such end is earnestly solicited.

In the event any fees are due in connection with this document, the Commissioner is authorized to charge those fees to Deposit Account No. 50-1063.

Should the Examiner believe a telephone interview would be helpful to expedite favorable prosecution, the Examiner is invited to contact applicants' undersigned representative at the telephone number listed below.

Respectfully submitted,
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